

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

TYLER HAMMOND and ANTONIA
HAMMOND,

Plaintiffs,

v.

CITY OF WILKES-BARRE, et al.,

Defendants.

CIVIL ACTION NO. 3:09-cv-2310

(JUDGE CAPUTO)

(MAGISTRATE JUDGE METHVIN)

ORDER

NOW this 14th day of August, 2012, after consideration of Magistrate Judge Mildred E. Methvin's Report and Recommendation in this matter (Doc. 61), **IT IS HEREBY ORDERED THAT** the Report and Recommendation will be **ADOPTED IN PART AND REJECTED IN PART** as follows:

1. Count I will be **DISMISSED WITH PREJUDICE**;
2. Plaintiffs' claim for substantive due process under the Fourteenth Amendment will be **DISMISSED WITH PREJUDICE**;
3. Plaintiffs' claim for due process under the Fifth Amendment will be **DISMISSED WITH PREJUDICE**; and
4. Plaintiffs' official capacity claims against the individual defendants Leighton, Vinsko, and Glodzik are **DISMISSED WITH PREJUDICE**.

/s/ A. Richard Caputo
A. Richard Caputo
United States District Judge